

quinn emanuel trial lawyers | new york

51 Madison Avenue, 22nd Floor, New York, New York 10010-1601 | TEL (212) 849-7000 FAX (212) 849-7100

WRITER'S DIRECT DIAL NO.
(212) 849-7143

WRITER'S EMAIL ADDRESS
erichuang@quinnemanuel.com

November 9, 2018

VIA ECF

The Honorable I. Leo Glasser
U.S. District Judge
U.S. District Court for the Eastern District of
New York
225 Cadman Plaza East
Room 921 South
Brooklyn, New York 11201

Re: Young Advocates for Fair Education v. Cuomo et al., No. 1:18-cv-4167-ILG-JO

Your Honor:

I write on behalf of Plaintiff Young Advocates for Fair Education (“YAFFED”) in response to the letter (Doc. No. 56) from *amici* Parents for Educational and Religious Liberty in Schools (“PEARLS”), Agudath Israel of America, Torah Umesorah and UJO of Williamsburg (collectively the “PEARLS *amici*”), seeking leave to submit a declaration by Professor Awi Federgruen.¹ YAFFED opposes this request.

The Federgruen declaration fails to provide any “unique information or perspective that can help the court beyond the help that the lawyers for the parties may be able to provide.” Doc. No. 55, at 1; *Ryan v. Commodities Futures Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997). It merely levels misplaced criticism at the probative value of the YAFFED Report. This is not a “unique perspective” that PEARLS or Professor Federgruen hold; it is unsolicited expert testimony arguing evidentiary sufficiency of the YAFFED Report. The lawyers for the parties can certainly argue the probative weight of the YAFFED Report. But Defendants have not argued nor sought to introduce expert testimony on this issue. The PEARLS *amici* again merely

¹ Although described as part of the submission by the PEARLS *amici* and purportedly prepared in conjunction therewith, the declaration appears unconnected to the PEARLS submission and does not even mention PEARLS. The Federgruen declaration was not cited in the PEARLS submission. No explanation is provided for why PEARLS waited over one month to submit this declaration.

make and support legal arguments in the Defendants' stead, rather than provide a unique perspective to the Court. This does not meet the requirements for "friends of the court" submissions as your Honor has outlined in the October 30, 2018 order. (Doc. No. 55).

The Federgruen declaration also adds nothing new to the pending motion for a preliminary injunction or to this case.² The declaration opines that the YAFFED Report "fails to substantiate" the claim that "Yeshivas do not comply with [relevant education] standards." This misplaced criticism is based on the incorrect assumption that the YAFFED report only relies on the "survey" and is meant to meet "best practices for survey sampling" as Federgruen asserts. (Doc. No. 56, at 4, ¶ 10). The September 2017 YAFFED Report (Doc. No. 19-1) includes a survey that *presents anecdotal evidence* of specific instances from the experience of specific former Hasidic students. (Doc. 19-1, at 37). *It never claims to be a scientific survey.* The Report does not rely on only this anecdotal evidence but also other evidence from UJA-Federation of New York, Avi Chai Foundation, New York City Department of City Planning projections, and papers from academics to identify and define a real problem in many ultra-Orthodox yeshivas. As outlined in YAFFED's briefs, the conclusions of the report have since been bolstered by New York City Department of Education's ("NYCDoE") investigation (Doc. No. 22-18) and by the Satmar Rebbe Aaron Teitelbaum, who admitted in an interview that many schools could not meet state standards, (Doc. No. 1 ¶ 63; Doc. No. 22-11, at 69).

YAFFED respectfully requests that the Court deny the request by the PEARLS *amici* and reject the submission of the Federgruen declaration.

Respectfully submitted,

/s/ Eric H. Huang

Eric Hui-chieh Huang

EH

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² While YAFFED disagrees with many of the statements in the Federgruen declaration, it will not go through them all here.